

**BAKER & HOSTETLER LLP**

45 Rockefeller Plaza  
New York, NY 10111  
Telephone: (212) 589-4200  
Facsimile: (212) 589-4201  
David J. Sheehan  
Nicholas J. Cremona  
Donna A. Tobin  
Kimberly M. Maynard

*Attorneys for Irving H. Picard, Trustee  
for the Substantively Consolidated SIPA  
Liquidation of Bernard L. Madoff Investment  
Securities LLC and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Adv. Pro. No. 08-01789 (SMB)

Plaintiff-Applicant,

SIPA LIQUIDATION

v.

(Substantively Consolidated)

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 10-05398 (SMB)

Plaintiff,

v.

ELBERT R. BROWN TRUST;

VIOLA BROWN TRUST;

DO STAY INC.;

ELBERT BROWN, in his capacities as CREATOR and TRUSTEE of the ELBERT R. BROWN TRUST, and INDIVIDUALLY as BENEFICIARY of the ELBERT R. BROWN TRUST; and

VIOLA BROWN, in her capacities as CREATOR and TRUSTEE of the VIOLA BROWN TRUST, and INDIVIDUALLY as BENEFICIARY of the VIOLA BROWN TRUST,

Defendants.

**NOTICE OF MEDIATION REFERRAL**

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010, Protective Order (the “Order”)<sup>1</sup> [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on December 9, 2010, [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

On July 24, 2015, Defendants Elbert R. Brown Trust, Viola Brown Trust, Do Stay, Inc., Elbert Brown, and Viola Brown filed a motion to dismiss this adversary proceeding [Dkt. No. 39] pursuant to Federal Rule of Civil Procedure 12(b)(6), made applicable by Bankruptcy Rule 7012 (a “Rule 12(b)(6) Motion”).

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<sup>1</sup> All terms not defined herein shall be given the meaning ascribed to them in the Order.

Pursuant to the Avoidance Procedures, upon the filing of a Rule 12(b)(6) Motion, the issues raised in such motion, together with the issues raised in the Complaint, are immediately referred to mediation. Avoidance Procedures, ¶ 2D.

Pursuant to the Avoidance Procedures, within 14 calendar days after the filing of this Notice of Mediation Referral, the Trustee and Defendants (the “Parties”) shall choose a mediator in accordance with the Mediation Order. If the Parties are unable to agree on a mediator, the Court shall appoint one in accordance with the Mediation Order. Avoidance Procedures, ¶ 5C.

Dated: New York, New York  
July 29, 2015

**BAKER & HOSTETLER LLP**

By: s/ Nicholas J. Cremona  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: 212.589.4200  
Facsimile: 212.589.4201  
David J. Sheehan  
Email: dsheehan@bakerlaw.com  
Nicholas J. Cremona  
Email: ncremona@bakerlaw.com  
Donna A. Tobin  
Email: dtobin@bakerlaw.com  
Kimberly M. Maynard  
Email: kmaynard@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the  
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of Bernard L. Madoff Investment Securities  
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